

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Market Structure Branch**

**RESOLUTION T-16944
June 16, 2005**

R E S O L U T I O N

Resolution T-16944. Rural Telecommunications Infrastructure Grant Program.

Resolution Authorizing the Disbursement of Funds for Grants from California High Cost Fund-A for Tule River Indian Reservation.

SUMMARY

As part of the Rural Telecommunications Infrastructure Grant Program, this resolution grants a disbursement of \$860,000.00 in funds from the California High Cost Fund A to the Tule River Indian Reservation for a fiber optic-based, passive optical network line extension.

BACKGROUND

Legislation and Rulemaking

California Assembly Bill (AB) 140 (Ch. 903, Stats. 2001) created the Rural Telecommunications Infrastructure Grant Program. The first of its kind in the nation, the program provides grants of up to \$2.5 million per project, with total grant funding of \$10 million per year, for construction of telecommunications infrastructure to low-income, rural communities currently without telephone service. The legislation required the California Public Utilities Commission (CPUC or Commission) to develop eligibility criteria for community-based groups to apply for grants and establish a government-industry working group to develop technical criteria for use in evaluating grant applications.

On February 27, 2003, the Commission issued an Order Instituting Rulemaking (Rulemaking 03-02-034) to develop application eligibility criteria. After consideration of comments, the Commission issued an interim decision adopting an application process and eligibility criteria for the grant program on September 18, 2003 (Decision 03-09-

071). On March 17, 2005, the Commission subsequently issued Decision 05-03-005 which adopted the interim grant program administration rules from D.03-09-071 as final rules and closed the Rulemaking.

Previous Year's Grants Program (2003-4)

The PUC received three applications for grants during the first year funding cycle. On June, 8, 2004, the Commission approved Resolution T-16846, providing funding for all three projects. The Yurok Tribe in Humboldt County was awarded \$2,500,000.00 for a wireline telecommunications project. The community of Iowa Hill in Placer County was awarded \$1,834,900.00 for a combination wireless and wireline infrastructure project. Trinity County was awarded \$2,500,000.00 to build ten cell tower sites throughout the county.

Application Process

The application process is divided into two phases: Phase 1 is the qualifying phase, in which applicants must provide information required in the legislation (information about their community and its residents, financial information, letters of support from the local government and other affected governmental agencies, letters of support from 75% of the identified residential community, and identity of the fiscal agent). Upon the successful completion of Phase 1, applicants are required to submit more detailed Phase 2 information consisting of items such as feasibility and construction cost studies. For fiscal year 2004-05, Phase 1 Applications were due on February 15, 2005, and Phase 2 Applications were due by May 2, 2005.

Statewide Public Information Meetings

During the first year of the grants program (2003-04), the Telecommunications Division (TD) staff held public meetings throughout the state to inform community groups of the application process and to answer questions of potential applicants. Meetings were held throughout the state in locations such as Coachella, Independence, Lakeport, Eureka, and Susanville. TD staff also sent about 1,900 meeting notices with program information to local government entities and community-based groups.

For this year's funding cycle, , TD sent out some 3,000 notices in December 2004 to local government entities and community-based groups informing them of the program and soliciting grant applications. Dozens of phone calls were received from potential applicants.

The Government Industry Working Group

The enabling legislation required the CPUC to establish a Government-Industry Working Group (GIG) to develop the technical criteria for use in evaluating grant applications. In Decision 03-09-071, the Commission approved working group representatives from SBC California, Verizon, CPUC staff, and the following individuals: Former Assembly Member Virginia Strom-Martin, Steve Bowen of the Bowen Law Group, and Regina Costa from TURN. The decision also approved membership of one representative each from the CLEC industry and wireless sector and directed Telecommunications Division staff to fill those vacancies with qualified representatives. Jeff Compton of Telscape Communications and Chris Johnson of T-Mobile were subsequently chosen to fill those respective slots.

The GIG held its first meeting on February 23, 2004 to discuss technical criteria for evaluating grant applications. Several additional meetings were held via teleconferencing in April and May 2004 to finalize the technical criteria for evaluating grant applications. Criteria include determining consistency with the enabling legislation, technical feasibility, a determination that the chosen technology is a cost effective telecommunications application, that the program exhibits a sound work plan, and the project will provide real public benefit to the served community. When the GIG met in May and June 2005 to consider the current proposals, these technical criteria were applied. The GIG has reviewed the application in detail and recommends approval.

DISCUSSION OF APPLICATION

Tule River Indian Reservation in Tulare County

By the February 15, 2005 deadline, the CPUC received a Phase 1 application from the Tule River Tribal Council near Porterville in Tulare County, California. TD staff reviewed the application and found it compliant with all necessary requirements of the Phase 1 process. The Tule River Tribal Council was notified they were officially qualified and eligible to submit a Phase 2 Application, the feasibility study detailing the engineering and construction costs aspects of their projects. They submitted a Phase 2 Application by the May 2, 2005 deadline.

The Tule River Indian Reservation (Reservation) is a 55,356 acre parcel of land located in a remote rural area approximately 20 miles from the nearest town of Porterville in Tulare County. The western boundary is the great agricultural belt of the San Joaquin Valley and the northern boundary is Sequoia National Park. The southern boundary is bordered by a number of private ranches and landowners, with the

remainder being enclosed by Sequoia National Forest. The two nearest cities of size are Fresno, approximately 70 miles northwest of Porterville, and Bakersfield, which is approximately 50 miles south of Porterville. The Reservation is accessible by only one winding paved road that follows the meandering South Fork of the Tule River.

The Reservation is held in trust for the Tribe by the U. S. Department of the Interior through the Bureau of Indian Affairs. No part of Reservation land is owned or can be sold to individuals. Housing and individual land plots are thus not privately owned and are administered by the Housing Authority. The Tule River Indian Housing Authority estimates there are presently some 250 residential dwellings located on the Reservation. There are 176 unique telephone numbers assigned to Reservation residents. Three housing areas within the Reservation are currently not served by SBC telephone facilities. They are the Apple Valley, Cow Mountain, Upper Cemetery and Vera Ranch Areas. Wireline penetration at the Tule River Indian Reservation is 75.5%, significantly below the 94% penetration rate for California.

The proposal submitted by the Tribal Council is a network consisting of a customer-accessible Minimal Point of Entry (MPOE) at the Reservation's Community Center with fiber optic distribution facilities to the unserved customers on the Reservation. SBC will remain the local franchise service provider and will have responsibility for network services to the newly established network interface point (MPOE). The Tribal Council will deploy a fiber-to-the-premises passive optical network (PON) technology for the access network and will maintain the facilities on the Tribal Lands. In addition to regular telephone service, the PON network will support broadband deployment.

Funding Recommendations

On May 13, 2005, May 26, 2005, June 6, 2005, and June 13, 2005, the GIG conducted a thorough, unbiased review of the Tule River Tribal Council Application. The GIG evaluated the application, measuring it against developed technical criteria, determining it consistent with requirements of the legislation, technically feasible, a cost effective chosen technology, exhibiting a sound work plan, and achieving real public benefit. The GIG recommends funding of the proposal in the amount of \$860,000.00. TD has reviewed this recommendation and has prepared this resolution.

NOTICE/PROTESTS

The Telecommunications Division concludes that the applications filed by the Tule River Tribal Council meets the requirements set forth in California Assembly Bill 140 (Ch. 903, Stats. 2001) and Commission Decisions 03-09-071 and 05-03-005 and recommends that the Commission approve the grant application. Commission

approval is based on the specifics found in the Phase 2 Application, and does not establish a precedent for the contents of future filings or for Commission approval of similar requests.

311 Mailing Of Draft Resolution

In compliance with P.U. Code section 311 (g), a notice letter was e-mailed or mailed on May 17, 2005 to the parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov> and is available for public comments. In addition, TD informed these parties of the availability of the conformed resolutions at the same website.

No comments were received by the Telecommunications Division.

FINDINGS

1. The Tule River Tribal Council timely submitted a Rural Telecommunications Grant Application for wireless telecommunication network infrastructure in the amount of \$860,000.00.
2. The Government-Industry Working Group has conducted a thorough, unbiased review of the application, measuring it against established technical criteria, and recommends full funding of the proposal subject to the applicant providing clarification of certain technical issues.
3. The source of the funds for these grants is the California High Cost Fund A.
4. The Telecommunications Division concludes that the application meets the requirements established by California Assembly Bill 140 and Commission Decisions 03-09-071 and 05-03-005.

THEREFORE, IT IS ORDERED that:

For the Rural Telecommunications Infrastructure Grant Program, funds shall be granted from the California High Cost Fund A to the Tule River Tribal Council to develop

1. A network consisting of a customer-accessible Minimal Point of Entry (MPOE) at the Tule River Indian Reservation's Community Center with fiber optic distribution facilities to the unserved customers on the Reservation in the amount of \$860,000.00.

2. The Commission's Information and Management Services Division is authorized to enter into an agreement with the fiscal agent Indian River Tribal Council in the amount of \$860,000.00.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission at its regular meeting on June 16, 2005 adopted this Resolution. The following Commissioners approved it:

/s/ STEVE LARSON

STEVE LARSON
Executive Director

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
JOHN A. BOHN
Commissioners